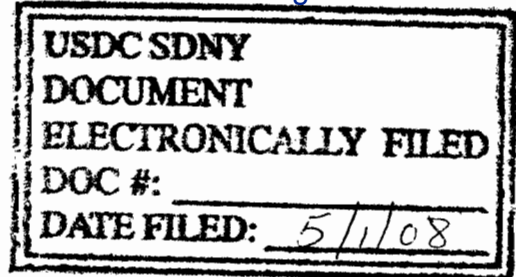


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



Wharton Capital Partners, et al.,

Plaintiff(s),

-against-

Xsunx, Inc.

Defendant(s).

ORDER OF DISCONTINUANCE

08 Civ. 56 (-HS)(FM)


08 Civ. 2150 (SHS)(FM)

It having been reported to this Court that the above entitled action has been settled, and the parties and their counsel having consented to the undersigned exercising jurisdiction over this case for the limited purpose of entering this Order of Discontinuance, it is hereby


ORDERED that said action be and hereby is, discontinued with prejudice and without costs; provided, however, that within 30 days of the date of this order, counsel for plaintiff may apply by letter for restoration of the action to the active calendar of the court, in which event the action will be restored.

DATED: New York, New York  
May 1, 2008

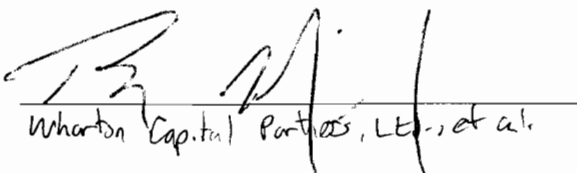
  
FRANK MAAS  
United States Magistrate Judge

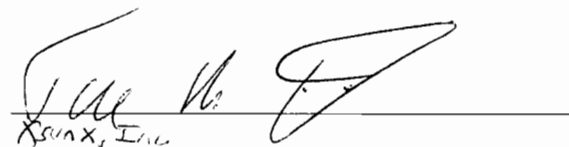
  
Attorney(s) for Plaintiff Wharton Capital  
Jeffrey Udell, Esq.  
Udell, Gendron, Fane, Rosenwald & Wisking LLP

Agreed and Consented to:

  
Attorney(s) for Defendant Xsunx, Inc.  
Howard Miller, Esq.  
Bond, Schenck, & King, PLLC

Agreed and Consented to:

  
Wharton Capital Partners, L.P., et al.

  
Xsunx, Inc.